

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2000-690

December 28, 2000

PUBLIC UTILITIES COMMISSION,  
Investigation of Procedures for Approving  
Reimbursable Expenses Made in  
Implementing E-9-1-1

ORDER APPROVING  
PROCEDURES

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we approve procedures that local exchange carriers (LECs), the Emergency Services Communication Bureau (Bureau), and the Maine Public Utilities Commission (Commission) will use to comply with a statutory requirement passed by the Legislature in 2000. This statute requires the Commission to determine the reasonableness of expenditures made by a LEC to implement the E-9-1-1 system before the Bureau may reimburse a LEC for its incurred expenses.

**II. BACKGROUND**

During the second session of the 119<sup>th</sup> Legislature, the Legislature approved revisions to Title 25 M.R.S.A. § 2927(3),<sup>1</sup> the statutory provision that describes the use of funds raised by a surcharge on customers' telephone bills for E-9-1-1. The amendment provides:

The bureau, to the extent it determines sufficient funds are available in the E-9-1-1 fund, shall use revenues in the E-9-1-1 fund to reimburse local exchange carriers for eligible expenses incurred by the carriers. For purposes of this subsection, the term "eligible expenses" means expenses:

- A. Incurred in preparing, correcting, verifying or updating subscriber information for use in databases necessary to implement the E-9-1-1 system; and
- B. Determined by the Public Utilities Commission to meet the requirements of paragraph A and to be reasonable expenses for the services provided.

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<sup>1</sup> An Act to Facilitate the Implementation for the E-9-1-1 System, P.L. 1999, ch. 651.

The Public Utilities Commission, in consultation with the Bureau, shall establish procedures for reviewing and approving expenses pursuant to paragraph B.

25-A M.R.S.A. § 2927(3).

In March 2000, Commission staff members met with representatives of the Bureau, the Telephone Association of Maine (TAM), Mid-Maine Telecom, Inc., and TDS Telecom, Inc. to establish procedures by which the Commission would verify eligible expenses for reimbursement. The parties to these discussions agreed upon the types of expenses that would be considered eligible, a procedure by which the Commission would approve upfront development costs incurred to create the databases, and a reimbursement level for ongoing maintenance expenses. The parties developed the ongoing maintenance reimbursement level by examining expenses in other states and the operating experience of certain LECs in Maine. The parties agreed that, absent changes resulting from further investigation, the LECs, the Bureau, and the Commission would follow these procedures in handling LEC expense reimbursement.

To determine whether these procedures were effective and appropriate for all LECs, on August 22, 2000, we issued a summary of the proposed procedures to all affected parties through a Notice of Investigation. In the Notice, we commented that the Bureau would follow those proposed procedures upon receiving a reimbursement request from a LEC, and that we would determine through the Investigation whether changes to those procedures were warranted.

On September 5, 2000, the Telephone Association of Maine (TAM) submitted comments recommending the following four changes to the proposed procedures:

1. remove reference to "updating" in Section IV(A)(1), because updating applies to ongoing maintenance of the databases rather than upfront development;
2. clarify that administrative activity such as design and implementation of management accounting procedures, that would not occur except for the E-9-1-1 system, are reimbursable costs;
3. revise the description of upfront development completion to agree with the Memorandum of Understanding entered into by the Bureau and TAM; and
4. state that audit expenses that would not occur except for the E-9-1-1 system are reimbursable costs.

The Commission received no other comments.

### III. DECISION

As required by statute, we have consulted with the Bureau regarding these procedures. In addition, we agree that TAM's recommendations are reasonable and have incorporated them into the final approved procedures.

At various times, participants in the development process have questioned whether a specific activity is reimbursable. To allay the concern that every type of reimbursable expense may not be listed explicitly in these procedures, we have included the phrase "includes (but is not limited to)" in the final procedures. To allay the concern that these procedures list expenses that should not be reimbursed in all situations, we have included the phrase "only expenses that would not be incurred absent the E-9-1-1 system shall be reimbursed." These procedures define a process by which we will approve reimbursements. We do not intend that these procedures will allow or require telephone companies to expend funds on activities that municipalities should perform to successfully implement E-9-1-1 systems.

For example, in the Notice, we stated that an audit is required by Title 35-A M.R.S.A. § 505 and by Chapter 710 of the Commission's rules, and that therefore audit expenses should not normally be reimbursed. TAM commented that audit expenses should be reimbursed. In the final procedures, we have listed audit expenses as reimbursable. However, when we consider an audit expense, we will require that a LEC include reasonable evidence that the expense is related solely to E-9-1-1 implementation and that the incremental work was necessary to adequately develop or update the E-9-1-1 databases.

Finally, we observe that the Bureau and TAM have entered into a Memorandum of Understanding (MOU) that governs transactions between them. The procedures approved in this Order are intended to be broad guidelines, and are not intended to supercede more specific transaction terms contained in the MOU.

### IV. PROCEDURES

The following paragraphs contain the final approved procedures for determining whether expenses are reimbursable, the reimbursement levels, and time frames for each step of the procedures.

#### A. Description of Reimbursable Expenses

"Eligible expenses" subject to reimbursement include both capital investments and expenses incurred to prepare, correct, verify, or update databases necessary to implement the E-9-1-1 system. As such, they include upfront development costs (one-time investments or expenses incurred to develop databases) and ongoing maintenance expenses (expenses incurred to maintain these databases.) Only expenses that would not be incurred absent the E-9-1-1 system shall be reimbursed.

Upfront development includes (but is not limited to):

1. Preparing databases: coordination with municipalities to develop identifiable road names and to exchange data and information, creation or modification of computer files that store relevant data, initial entry of data into databases, creation of computer software to manipulate databases (e.g., sorting, merging, downloading, verifying, extracting), capital investment in equipment to create and maintain databases, creation of procedures for manipulating data, administrative costs such as accounting procedure development and auditing, documentation, and training; and
2. Verifying and correcting databases: labor costs of visual verification, running of verification computer programs, and communication with municipalities.

The LEC and the addressing officer for the municipality shall agree in writing that upfront development is complete. After such agreement, work performed by the LEC shall be considered ongoing maintenance.

Ongoing maintenance includes (but is not limited to) entry of revised and new data, verification of revisions and new data, transfer of data between databases and E-9-1-1 systems, communication with E-9-1-1 personnel regarding procedures and data, improvements and maintenance of computer programs, and trouble-shooting LECs' systems.

When expenses include contracted payment to an external vendor or a consultant, the vendor must disaggregate its bill to the degree necessary to identify E-9-1-1 tasks. When expenses include internal labor and materials, the expense may include reasonable overhead.

**B. Procedures for Approving Upfront Development Costs**

A LEC shall submit its bill and supporting explanation to the Bureau and the Commission simultaneously. Invoices shall be submitted at the end of upfront development. Supporting explanation shall be sufficient to justify the expenses and may include such items as labor time and cost differentiated by function, overhead, invoices for capital costs, and invoices for payments to external vendors.

Within 10 days of receiving a bill, the Bureau shall inform the Commission of any concerns it has regarding the bill. If, within 30 days of receiving a LEC's bill, the Commission has not directed suspension of payment, the bill shall be deemed approved. After the Commission has approved the bill and after the Bureau has determined that sufficient funds are available, the Bureau shall reimburse the LEC within a time frame agreed upon between the Bureau and the LEC.

The Commission may direct suspension of payment within 30 days of receiving a LEC's bill by sending to the LEC and the Bureau a letter describing the Commission's concerns or questions and requesting additional information. The LEC shall respond within 10 days. The Commission shall determine its approved level of reimbursement within 30 days of receiving the LEC's response. The Commission may extend the 30-day period if the LEC, the Bureau and the Commission agree. In this instance, the Bureau shall not reimburse the LEC until the Commission approves a reimbursement level.

C. Procedures for Reimbursement of Ongoing Maintenance Expenses

The Bureau shall reimburse each LEC at a rate of \$0.088 per LEC access line per month. Any party may petition the Commission to revise the \$0.088 payment level, and the Commission, the LEC, and the Bureau shall attempt to agree on a revised payment level. Should agreement not be reached, the Commission shall determine whether a revised payment level should be implemented and what that level should be. A LEC's ongoing maintenance payment level shall not be revised more than twice before July 2005. The Bureau shall reimburse each LEC within a time frame agreed upon by the Bureau and the LEC.

Accordingly, we

O R D E R

1. That the Procedures contained in this Order are approved;
2. That this investigation is now closed.

Dated at Augusta, Maine, this 28th day of December, 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.